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December 5, 2011

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

2011 DEC 5
PUBLIC FILING

Re: ***Canexus Chemicals Canada L.P. v. BNSF Railway Company,***
STB Docket No. 42132

Dear Ms. Brown:

Enclosed for filing in the above-captioned matter is the public version of BNSF Railway Company's ("BNSF") Answer to Canexus's Complaint. We are filing under separate cover a confidential version of BNSF's Answer to Canexus's Complaint. Concurrently with this filing, Canexus is also being served with the initial disclosures required by 49 C.F.R. § 1111.4(b).

If you have any questions, please do not hesitate to contact me.

Regards,

Anthony J. LaRocca

Enclosures

cc: Counsel of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**CANEXUS CHEMICALS
CANADA L.P.**

Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

231421

STB Docket No. 42132

BNSF RAILWAY COMPANY'S ANSWER TO CANEXUS'S COMPLAINT

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**ATTORNEYS FOR
BNSF RAILWAY COMPANY**

December 5, 2011

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**CANEXUS CHEMICALS
CANADA L.P.**

Complainant,

v.

BNSF RAILWAY COMPANY

Defendant.

STB Docket No. 42132

BNSF RAILWAY COMPANY'S ANSWER TO CANEXUS'S COMPLAINT

Defendant BNSF Railway Company ("BNSF") hereby answers the Complaint filed by Canexus Chemicals Canada, L.P. ("Canexus") in this proceeding on November 14, 2011.

As to the introductory paragraph on pages 1-2 of the Complaint, BNSF admits that Canexus seeks a determination that the common carrier railroad rates BNSF has established for the transportation of chlorine from North Vancouver, British Columbia, Canada to Glendale, Arizona and to Albuquerque, New Mexico are unreasonably high and that Canexus asks the Board to award damages plus interest. BNSF denies all other allegations in the introductory paragraph on pages 1-2. BNSF specifically denies that Canexus has stated a valid claim for relief under the *Simplified Standards*.

BNSF responds to the allegations in each separately numbered paragraph of the Complaint as follows:

1. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 and therefore denies those allegations, except that BNSF admits

that the chlorine is transported by BNSF for Canexus in specialized rail tank cars supplied by Canexus.

2. BNSF admits the allegations of paragraph 2, except that BNSF denies that the Board has jurisdiction to provide the relief requested.

3. BNSF admits the allegations in paragraph 3 of the Complaint.

4. BNSF admits the allegations in the first sentence of paragraph 4, except that BNSF denies that the interchange point is Brownsville Junction. BNSF admits the allegations in the second sentence of paragraph 4, except that BNSF denies that the transportation is provided entirely by BNSF on BNSF's system. BNSF denies the allegations in the third sentence of paragraph 4, except that BNSF admits that the common carrier rates and service terms for the transportation of Canexus's chlorine from the North Vancouver Facility have historically entailed the absorption by BNSF of some of the reciprocal switching charges assessed by CN.

5. BNSF denies the allegations in the first sentence of paragraph 5. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second and third sentences of paragraph 5 and therefore BNSF denies those allegations.

6. BNSF denies that the information contained in the table in paragraph 6 is accurate.

7. BNSF admits the allegations in paragraph 7, except that BNSF denies that the rates were contained in "BNSF Price Authority 90096, Implementing Agreement 1063." BNSF further states that before March 16, 2011, the rates were set out in BNSF Price Authority 90096, Item 1063, Revision 11 and Item 1056, Revision 10.

8. BNSF admits the first sentence of paragraph 8. BNSF denies the allegation in the second sentence of paragraph 8, and BNSF states that the rate from North Vancouver to

Glendale, AZ was established at \$14,845 per carload in BNSF Price Authority 90096.

Implementing Agreement 5000, Amendment 20 (effective March 16, 2011). BNSF admits the allegation in the third sentence of paragraph 8. With respect to the allegation in the fourth sentence of paragraph 8, BNSF admits that a mileage-based fuel surcharge has been applied to its common carrier rates for shipments of chlorine as provided in BNSF Rules Book 6100-Series. BNSF denies the allegations in the last sentence of paragraph 8.

9. With respect to the allegations of paragraph 9, BNSF admits that the rates in BNSF Price Authority 90096, Implementing Agreement 5000, Amendment 20 (effective March 16, 2011), are significantly higher than the rates previously paid by Canexus for these destinations, but BNSF denies that the rates are unreasonably high in violation of 49 U.S.C. §§ 10701 and 10704.

10. Paragraph 10 does not contain any allegations that require an answer from BNSF.

11. With respect to the first sentence of paragraph 11, BNSF admits that there is no effective intramodal competition for the rail transportation of chlorine from the North Vancouver facility to Glendale or Albuquerque under the Board's current market dominance standards. BNSF denies the allegations in the second and third sentences of paragraph 11. The fourth sentence of paragraph 11 states a legal conclusion to which no response is required. BNSF denies the allegations in the fifth and sixth sentences of paragraph 11. BNSF denies the allegations in the seventh sentence of paragraph 11, except that BNSF admits that the rail facilities of Canexus's customers are physically connected only to BNSF. BNSF denies the allegations in the eighth sentence of paragraph 11.

12. BNSF admits the allegation in the first sentence of paragraph 12. BNSF denies the allegations in the second and third sentences of paragraph 12.

13. BNSF admits the allegations of paragraph 13.

14. BNSF admits the allegations of paragraph 14 that BNSF has qualitative market dominance over the transportation of chlorine from the North Vancouver facility to the two destinations in the Complaint under the Board's current market dominance standards.

15. BNSF denies the allegations in the first sentence of paragraph 15, except that BNSF admits that the common carrier rates for transportation of chlorine from North Vancouver to Glendale and Albuquerque produce revenues in excess of 180% of BNSF's variable costs of providing that transportation as estimated by the unadjusted figures produced by the URCS Phase III program.

16. BNSF denies the allegations of paragraph 16 and further states that Canexus's estimates of the URCS Phase III variable costs and revenue-to-variable cost ratios for the movements from North Vancouver to Glendale and Albuquerque are incorrect. BNSF submits its preliminary estimates of the applicable revenue-to-variable cost ratios with this Answer as Exhibit A.

17. Paragraph 17 states a legal conclusion to which no response is required. To the extent that a response is required, BNSF denies that the Board has jurisdiction to provide the relief requested.

18. Paragraph 18 states a legal conclusion to which no response is required. To the extent that a response is required, BNSF denies the allegations in this paragraph.

19. Paragraph 19 states a legal conclusion to which no response is required. To the extent that a response is required, BNSF denies the allegations in this paragraph.

20. Paragraph 20 does not contain any allegations that require an answer from BNSF. BNSF specifically denies that the rates exceed a reasonable maximum rate. BNSF further states that awarding relief in this case would not be appropriate, justified, or lawful.

21. Paragraph 21 does not contain any allegations that require an answer from BNSF. BNSF specifically denies that the rates exceed a reasonable maximum rate. BNSF further states that awarding relief in this case would not be appropriate, justified, or lawful.

22. Paragraph 22 does not contain any allegations that require an answer from BNSF.

23. Paragraph 23 does not contain any allegations that require an answer from BNSF.

24. Paragraph 24 states a legal conclusion to which no response is required. To the extent that a response is required, BNSF denies the allegations in this paragraph.

25. BNSF admits that concurrent with the service of its Complaint, Canexus sent BNSF a document entitled "Disclosure Pursuant to 49 C.F.R. § 1111.1 (b)." However, BNSF denies that the mandatory disclosures were adequate under 49 C.F.R. § 1111.1(b).

With respect to Canexus's "WHEREFORE" clause on pages 9-10, BNSF denies that an order granting any relief sought by Canexus in this proceeding would be appropriate, justified or lawful.

DEFENSES

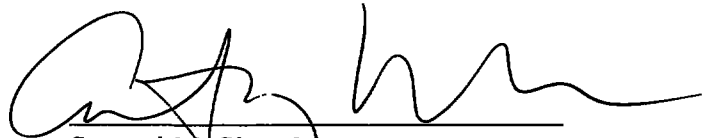
1. The Complaint fails to state a claim that the rates referenced in the Complaint exceed a reasonable maximum.

2. This proceeding is not an appropriate case for the Three-Benchmark Methodology as adopted in *Simplified Standards for Rail Rate Cases*, STB Ex Parte No. 646 (Sub-No. 1) (STB served Sept. 9, 2007), because the Board's current methodology does not permit full, adequate, and accurate consideration of the extraordinary costs and characteristic of TIH movements.

3. The Board lacks jurisdiction to provide the relief requested by Canexus in this case.

4. The rates referenced in the Complaint do not exceed a reasonable maximum.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Samuel M. Sipe, Jr.', written over a horizontal line.

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December 5, 2011

ATTORNEYS FOR DEFENDANT

EXHIBIT A

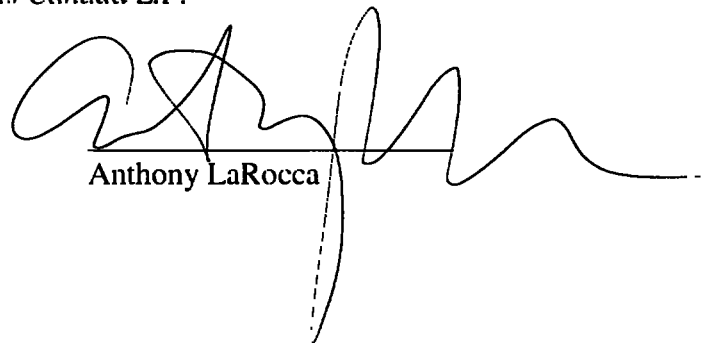
As stated in paragraph 16 of its Answer, pursuant to 49 C.F.R. § 1111.4(a) and *Simplified Standards for Rail Rate Cases*, STB Ex Parte No. 646 (Sub-No. 1), slip op. at 25 (STB served Sept. 5, 2007), BNSF submits the following preliminary estimates of the URCS Phase III variable costs and revenue-to-variable cost ratios for the movements from North Vancouver to Glendale and Albuquerque at Q3 2011 levels.

	URCS Phase III Variable Costs	Rate per car (including fuel surcharge)	R/VC Ratio
Glendale	{ }	\$15,498	{ }
Albuquerque	{ }	\$18,417	{ }

CERTIFICATE OF SERVICE

I hereby certify on this 5th day of December, 2011, I have served a copy of the foregoing BNSF Railway Company's Answer to Canexus's Complaint on the following by e-mail and first-class mail, postage prepaid:

Thomas W. Wilcox
GKG Law, PC
1054 31st St NW, Suite 200
Washington DC 20007
Counsel for Canexus Chemicals Canada L.P.



Anthony LaRocca